

COMMITTEE CONFERENCE
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Application for)
Certification for the) Docket No. 00-AFC-1
MIRANT DELTA'S CONTRA COSTA)
POWER PROJECT)
-----)

DELTA DIABLO SANITATION DISTRICT
BOARD ROOM
2500 PITTSBURG-ANTIOCH HIGHWAY
ANTIOCH, CALIFORNIA

THURSDAY, MAY 24, 2001

6:10 P.M.

Reported by:
James Ramos
Contract No. 170-99-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

Garret Shean, Hearing Officer

STAFF PRESENT

Lisa DeCarlo, Staff Counsel

Cheri Davis, Project Manager

PUBLIC ADVISER

Priscilla Ross

REPRESENTING THE APPLICANT

Emilio E. Varanini, Attorney

Terry German, Attorney

Livingston & Mattesich

Mark H. Harrer, Project Director

Ronald M. Kino, Environmental Health and
Safety Manager

Mirant Americas Development, Inc.

INTERVENORS

Tony Chapman

Sportsmans Yacht Club

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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1 P R O C E E D I N G S

2 6:10 p.m.

3 HEARING OFFICER SHEAN: Good evening,
4 ladies and gentlemen. This is a Committee
5 Conference to review and take comments on the
6 Contra Costa Unit 8 Power Project's Presiding
7 Member's Proposed Decision.

8 I'm Garret Shean; I am the Hearing
9 Officer on the case, here on behalf of the
10 Committee. And why don't we have the staff and
11 applicant and Mr. Chapman, representing the
12 Sportsman, introduce themselves in sequence.

13 MS. DeCARLO: Lisa DeCarlo, Staff
14 Counsel.

15 MS. DAVIS: Cheri Davis, Project
16 Manager.

17 MR. VARANINI: I'm Gene Varanini with
18 the lawfirm of Livingston and Mattesich, and I'm
19 counsel to the project.

20 MR. HARRER: Mark Harrer, Mirant
21 Corporation.

22 MR. GERMAN: Terry German, Livingston
23 and Mattesich.

24 MR. CHAPMAN: Tony Chapman, Sportsmans
25 Yacht Club.

1 HEARING OFFICER SHEAN: Are there any
2 other folks with your group, Tony, who think they
3 might want to be speaking?

4 MR. CHAPMAN: No, not yet. I feel like
5 Bill Worrell will be here.

6 HEARING OFFICER SHEAN: Okay, well,
7 we'll look forward to that.

8 MR. CHAPMAN: Depends on how many cars
9 he can get out of his shop.

10 HEARING OFFICER SHEAN: All right. What
11 we're basically dealing with here is the
12 Committee's Presiding Member's Proposed Decision,
13 which was distributed publicly on I think it was
14 April 30th.

15 We've received written comments from the
16 applicant and from the staff. And what I thought
17 we would do is initially go over some of those,
18 then take any other comments that the parties have
19 and wrap it up with some prelude discussion to the
20 full Commission business meeting hearing which
21 will take place a week from yesterday. That will
22 be May 30th, at which the full Commission will
23 consider and possibly adopt the Committee's
24 Presiding Member's Proposed Decision.

25 What the order of sequence ought to be

1 is first through the applicant's suggested
2 changes, most of those having to do with
3 verification of timing. And I've asked the staff
4 to review those and see whether they're acceptable
5 in particular.

6 I notice that the first one was sort of
7 what I would call general request that the
8 proposed decision include with each of the
9 verifications a quote or a date agreed to by the
10 CPM as far as the lead times for the
11 verifications.

12 What I did was to suggest to the staff
13 that they look somewhere in the general conditions
14 of compliance monitoring to see if we couldn't
15 just include a sentence or some clarification in
16 some portion of that, which would capture the
17 intention that the CPM could agree to any other
18 lead date, if we were going to call it that, lead
19 time for filing verification materials, whether
20 they be a letter, report or third-party document.

21 And we got to page 176, and in the
22 sentence that currently reads: The verification
23 procedures, unlike the conditions, may be modified
24 as necessary by the CPM, and in most cases without
25 full Energy Commission approval.

1 We thought that probably the best thing
2 to do was to include another clause in there that
3 the verification procedures, including
4 verification lead times, unless otherwise
5 specifically directed, could be modified.

6 And I think that would probably capture
7 what it is that you want. And I think improve
8 significantly the idea of a general order that
9 could have broader applicability.

10 Okay, with that, why don't we just go
11 through the specific ones.

12 The first one on page 14 dealing with
13 the air quality condition C-2. And I guess, let
14 me say it appeared that what we had was sort of a
15 stacking problem here of a certain period to
16 approve the qualifications of the environmental
17 person who's going to do the reports. Then an
18 additional amount of time for approving initial
19 report.

20 And I guess I went back and looked
21 through AQC-2 for the word initial report before
22 it appeared on page 14 in number 5. And I didn't
23 find it. Is there -- do you know why I didn't
24 find it? I'm trying to find what it refers to as
25 an antecedent.

1 Maybe this is something we can clean up
2 between now and Wednesday, but how about the
3 timeframe aspect as far as the applicant was
4 concerned?

5 MS. DeCARLO: Well, I spoke with our air
6 quality staff and they are willing, if the
7 applicant were to forego the use of a QEP, they
8 were just going to stick with an ME, then we would
9 be willing to just have the qualification
10 submittal and the initial report submittal at the
11 same time. And we would agree to do that 30 days
12 before project construction.

13 However, if it was just -- if the QEP
14 was still on the board, then we would need time to
15 review the qualifications of that person. Staff
16 feel more comfortable dealing with an ME straight
17 off the bat than they would with a QEP.

18 MR. GERMAN: That's fine.

19 HEARING OFFICER SHEAN: Is that all
20 right?

21 MR. GERMAN: Yeah.

22 HEARING OFFICER SHEAN: So should we be
23 removing QEP from the condition and just having an
24 ME, and then it's 30 days? Is that right? That
25 works for you?

1 MR. GERMAN: Yeah.

2 HEARING OFFICER SHEAN: I want to ask
3 the staff if they'd come back with either a
4 highlighted or some other version to help me make
5 sure that we're doing it to conform with what you
6 were talking about.

7 MS. DeCARLO: Sure, we can make the
8 changes, and then send it up to you.

9 HEARING OFFICER SHEAN: Okay. And that
10 we track down this initial report, because I
11 notice in the comments by the applicant they're
12 calling it the installation report. Now, maybe
13 that's what that is. So, we'll just get that
14 clarified before next Wednesday.

15 MS. DeCARLO: Yes, we'll look into that
16 and give you an explanation.

17 HEARING OFFICER SHEAN: Okay. The next
18 was on page 26, AQ-36.

19 MS. DeCARLO: On some of these
20 verification provisions we had originally
21 requested a 60-day requirement and --

22 HEARING OFFICER SHEAN: Well, let me
23 indicate, this one was, the verification change
24 would have been to 30 days prior to the start of
25 stack construction, as opposed to a general

1 construction.

2 MS. DeCARLO: Right, and we had some
3 discussions with the applicant in our FSA
4 workshops to the effect that they requested
5 instead of 60 days that we had originally
6 recommended, 30 days. So we did change it to 30
7 days during those workshops.

8 Staff has some concerns about changing
9 the compliance date from startup construction to a
10 particular stack, particular facility
11 construction.

12 It complicates matters in trying to
13 organize compliance, on trying to follow what's
14 going on. And since we did reduce it from the 60
15 days, we feel that that should be sufficient.

16 There is that lead time flexibility in
17 the regs, so if there are some major problems
18 staff is free to talk to the CPM and work
19 something else out. But as it stands now, we
20 would prefer the retention of the start of
21 construction date.

22 HEARING OFFICER SHEAN: Okay. And the
23 applicant?

24 MR. VARANINI: I know from talking to
25 our construction people one of the concerns here

1 is to try to make this thing as linear as
2 possible, linear program as development goes
3 forward and then construction.

4 I think what they were concerned about
5 was that there was a block of activities that
6 actually might occur over quite a period of time,
7 all detail plans, or plans for which would have to
8 be submitted up front.

9 So the concept was to say where possible
10 you would have kind of a flow diagram or linear
11 program. And you would say at phase one would
12 have certain activities in it, and the plans would
13 come in on phase. And then phase two, the plans
14 would come in on phase. And so forth and so on.

15 It's a matter of trying to tie, and in
16 some cases detailed analysis is exactly that; it's
17 more detailed than it might be for other
18 activities. And it was trying to get the process
19 put into a linear program and stretched out
20 throughout the construction period.

21 I'm not sure if that's done normatively
22 anyway, but that's what they were attempting to
23 do.

24 HEARING OFFICER SHEAN: And I assume
25 this is going to -- your same remark would go to

1 AQ-37 and 45?

2 MS. DeCARLO: Right, all the AQ remarks.

3 HEARING OFFICER SHEAN: Okay.

4 MR. VARANINI: We have our actual
5 construction person, the manager who's responsible
6 for that, has been on board throughout the
7 project. And a lot of times, I think, generally
8 the person will make some agreements, and then
9 they buck the whole thing to the EPC.

10 And in this case, this particular person
11 has had, and will continue to have,
12 responsibility. So he's bird-dogged this pretty
13 carefully. And I think in that sense you might
14 want to think about that as some help to the
15 Commission, you know, as you proceed with other
16 cases, as well.

17 HEARING OFFICER SHEAN: Okay, I think
18 there's some sympathy on the Committee for the
19 approach the applicant is talking about here that
20 we need to make sure our compliance is as customer
21 friendly as it can reasonably be.

22 I guess why don't we just let me go back
23 through and talk to the compliance people
24 specifically to find out whether or not in the
25 matrix format and other things that you've got to

1 file that there's a way that these sort of things
2 can be accommodated.

3 Because it makes some sense that you not
4 have to file something in an initial phase when it
5 is either in the middle or coming near the end,
6 and could be done, you know, rolling or linear
7 sense.

8 So, we've got the concept. Let's see if
9 we can work it out back in Sacramento, and we'll
10 let you know.

11 MS. DeCARLO: I might also add that this
12 information is also needed by the District and
13 other agencies, so it's not just for CEC use.

14 HEARING OFFICER SHEAN: Right. And for
15 that we might want to go back to the provisions of
16 the DOC. Okay.

17 Why don't we do BIO-4; it's page 103.

18 MS. DeCARLO: BIO-1 is before that.

19 HEARING OFFICER SHEAN: I'm sorry?

20 MS. DeCARLO: BIO-1 is the page before.

21 HEARING OFFICER SHEAN: Okay, BIO-1.

22 MS. DeCARLO: Staff agrees to the
23 changes on BIO-1, BIO-4, and BIO-8.

24 HEARING OFFICER SHEAN: All right. And
25 then we had GEN-1 on page 142.

1 MS. DeCARLO: Staff does not agree to
2 the timeline change.

3 MR. VARANINI: GEN-1?

4 MS. DeCARLO: GEN-2.

5 HEARING OFFICER SHEAN: I'm sorry, isn't
6 it GEN-1? I beg your pardon, it's GEN-2. On page
7 142.

8 MS. DeCARLO: Within that verification
9 section there is clear language regarding the
10 flexibility to change the date. As it stands now,
11 staff needs a certain amount of time to review the
12 list specifications. And we feel that 60 days is
13 necessary for our review.

14 If it turns out to be less than 60 days
15 then applicant can speak with the CPM on that.

16 HEARING OFFICER SHEAN: Any comments
17 from the applicant here?

18 MR. VARANINI: Well, we're trying to
19 expedite this as much as possible, so we're
20 looking for as short a critical path as we can
21 get.

22 HEARING OFFICER SHEAN: All right. I
23 will take that one under submission and discuss it
24 up in Sacramento.

25 Soil and Water 4 and 8, page 117 and

1 119.

2 MS. DeCARLO: We just got the comments
3 today and we haven't been able to contact our
4 staff member who analyzed the project on this. So
5 I can't respond to these two at this moment. I
6 will be able to, however, provide you with a
7 response possibly tomorrow.

8 HEARING OFFICER SHEAN: Do I recall that
9 this permit is either granted or close to being
10 granted, is that right?

11 MR. VARANINI: It's been granted.

12 HEARING OFFICER SHEAN: Okay. And so
13 it's just a ministerial --

14 MR. VARANINI: That's correct.

15 HEARING OFFICER SHEAN: This is just a
16 FedEx function, isn't it? Okay.

17 MR. VARANINI: Depending on who's
18 putting the address on it and when.

19 HEARING OFFICER SHEAN: And let's see,
20 on the next one, let's look at this. All right,
21 number 8 is just this plan for what to do in the
22 event that contaminated groundwater is found
23 during excavations, right?

24 MR. VARANINI: Right.

25 HEARING OFFICER SHEAN: Okay. Another

1 one of the things that we've been looking at is
2 whether or not these routine plans that there are
3 virtually part of every standardized set of
4 conditions, we can't just come up with the model
5 plan so that it's not a matter of bringing me a
6 ROC for every applicant. We can say this is, over
7 time, what we've accumulated, and then constitutes
8 a good enough plan. Do you accept it as an
9 applicant or a project owner. And if they do,
10 fine. If they don't, then you make your own.

11 All right, we've got the concept.
12 Staff, I assume it was the same response? You
13 haven't talked to this person --

14 MS. DeCARLO: Correct.

15 HEARING OFFICER SHEAN: -- and need
16 to --

17 MS. DeCARLO: And I would just note that
18 there is inherent flexibility in the verification
19 process and there's no need to change the date
20 now.

21 HEARING OFFICER SHEAN: Okay.

22 MS. DeCARLO: As far as providing plans,
23 I know in most instances, specifically in biology
24 and cultural, we do provide applicants with sample
25 plans that they can then tailor to their site.

1 The problem arises when each site has
2 different specifications.

3 HEARING OFFICER SHEAN: Right. We have
4 just a whole slew of existing power plant sites
5 that have already disturbed soils and, you know,
6 obviously there's a potential for some
7 contamination based upon some of these prior
8 practices.

9 But it's not likely there aren't a bunch
10 of these that we've already had before.

11 Okay. VIS-5 is on page 77.

12 MS. DeCARLO: VIS-5 is one of those
13 plans that probably will go through several
14 iterations until staff finds it acceptable to
15 serve as mitigation.

16 Additionally, the City of Antioch and
17 Contra Costa will need to review and comment on
18 the plan. We feel 60 days is necessary for the
19 detail involved in the review and the potential
20 for resubmittals, and also the extra City review.

21 HEARING OFFICER SHEAN: And what you're
22 talking about here is a construction aesthetic
23 screening, is that right? Or is this supposed to
24 be of a longer term?

25 MS. DeCARLO: No, it's just the

1 aesthetic screening plan in general, I believe.

2 HEARING OFFICER SHEAN: The permanent
3 one?

4 MR. GERMAN: No, it's temporary.

5 HEARING OFFICER SHEAN: Pardon me?

6 MR. VARANINI: Just construction, it's
7 temporary.

8 HEARING OFFICER SHEAN: Okay, that's the
9 way --

10 MR. VARANINI: It's really what color
11 filter we're going to have on the cyclone fence.

12 HEARING OFFICER SHEAN: Is that right,
13 we're talking about a minimum of 12 feet? So this
14 is basically a double-height to a standard cyclone
15 fence? Is that what we have in mind?

16 MS. DeCARLO: Twelve feet is what we're
17 requesting.

18 MR. VARANINI: It's just netting or --

19 MR. HARRER: It's not a cyclone fence.
20 It's not a cyclone fence.

21 HEARING OFFICER SHEAN: Okay, but I
22 mean --

23 MR. VARANINI: It's netting --

24 (Parties speaking simultaneously.)

25 HEARING OFFICER SHEAN: Okay, but I mean

1 a typical cyclone fence, though, is six feet tall.

2 MR. VARANINI: Right.

3 HEARING OFFICER SHEAN: And this is
4 proposed to be 12 feet tall, right?

5 MR. VARANINI: Yeah.

6 HEARING OFFICER SHEAN: And since it's
7 in here, I'm just wondering, is that what you
8 folks, at one point, had agreed to?

9 MR. HARRER: Pretty much, yeah.

10 HEARING OFFICER SHEAN: All right.
11 Okay, but you're just -- but this, as screening,
12 wouldn't necessarily be associated with your
13 security fencing?

14 MR. HARRER: Right, it's not permanent.

15 HEARING OFFICER SHEAN: Okay. All
16 right, let's see, that pretty much runs through
17 what I had shown from this set of comments filed
18 on the 23rd.

19 Was there anything more from the
20 applicant in terms of proposed changes, or any
21 comments on the document, itself? That's it?
22 Okay.

23 Staff had obviously comments on the
24 visual analysis in the proposed decision, and
25 sought to have VIS-6 placed in the proposed

1 decision. And the Committee is going to
2 deliberate that before we meet on Wednesday.

3 And also to have the cultural resources
4 verification timeline changes not reduced from 60
5 to 30 days, and we are going to discuss those.

6 There was this other matter of the
7 construction milestone discussion being added.
8 First of all, my understanding is we're not
9 operating under any executive order in this
10 particular case, am I correct in that? But this
11 is something that you -- the language here says
12 the applicant does not object to the inclusion in
13 the final decision, or do you care?

14 MR. VARANINI: That's correct.

15 HEARING OFFICER SHEAN: Okay. All
16 right. And how about the WASTE-3 and 4, I
17 guess --

18 MR. VARANINI: Those are fine.

19 HEARING OFFICER SHEAN: That's okay?
20 Let me just ask the staff on page 9 of those
21 proposed changes, in WASTE-4 basically about four
22 lines from the bottom it says on the line that
23 begins: Be required, the project owner shall
24 contact representatives of Santa Clara County.

25 Do we mean in this instance Contra Costa

1 County?

2 MS. DeCARLO: Yes.

3 HEARING OFFICER SHEAN: Okay. All
4 right.

5 MR. VARANINI: We would like your
6 permission to file a couple-page comment on the
7 staff's comments on visual. I think we have a
8 solution, in terms of looking at it pretty
9 carefully, we think that the Committee can -- that
10 there's some facts that the Committee can fold
11 into its calculus that will make the decision
12 internally and externally consistent.

13 HEARING OFFICER SHEAN: All right, well,
14 that's fine. And I guess one of the --

15 MR. VARANINI: And we'll give a copy to
16 staff as soon as we have it ready.

17 HEARING OFFICER SHEAN: Okay. One of
18 the discussions that we were having at the
19 Committee level dealt with, well, if whether there
20 were some middle ground, and based upon the
21 staff's comments, it seemed to be that they were
22 concerned about the minimum mass flow rate. And
23 to the extent that that influenced the potential
24 size of the plume. Whether or not the Committee
25 could discuss and maybe deal with that.

1 MR. VARANINI: We think that if there is
2 an ambiguity in the record we don't see that, but
3 we'd be willing to stipulate to the appropriate
4 flow that then has a consistency with the
5 analysis.

6 HEARING OFFICER SHEAN: Okay, well, and
7 that was what I was going to ask, though, is
8 whether or not there is significant variability in
9 the mass flow rates, or such that if the project
10 were described as having a mass flow rate of
11 something, that that's really what it would be?
12 Or there would be substantial deviation below that
13 that --

14 MR. VARANINI: I think it's designed to
15 that. I think that's what the whole notion of the
16 concept is, it will be designed to the level the
17 staff's talking about.

18 MR. GERMAN: And if you'd like a cite to
19 the transcript where Ms. Ambedo from Mirant
20 testified, it's page 39, lines 8 through 19.

21 HEARING OFFICER SHEAN: But does that
22 mean that if -- does the condition saying that it
23 shall be designed to that, because that's what
24 you've offered it to be, is that problematic, or
25 is that okay, or -- and I don't even know whether

1 they think that that has any effect, but --

2 MR. VARANINI: We'll design to it. I
3 mean we'll commit to design to it. Whether, you
4 know, to the extent the system always operates at
5 that, we can give you some more information on
6 that. But that will be the design parameter.

7 I think the other factor that we'll talk
8 about is it depends on whether you think length of
9 plume is -- a plume length of 300 feet is
10 acceptable, along with a plume length of 200-and-
11 something feet. Those judgments essentially make
12 your decision about what's significant and not
13 significant to a system.

14 So, flow rate, and then the size of the
15 plume at a -- in our testimony I believe it's 300-
16 and-something feet, and theirs is 200-and-
17 something feet for a certain number of non-fog
18 days per year estimated.

19 And I think that's where the difference
20 is in making a determination as to what's
21 potentially significant and what isn't.

22 HEARING OFFICER SHEAN: Okay, well, --

23 MR. VARANINI: We'll put that in
24 writing, because I realize verbally it's kind of
25 choppy.

1 HEARING OFFICER SHEAN: Right. And the
2 sooner the better, I guess, --

3 MR. VARANINI: It'll be tomorrow.

4 HEARING OFFICER SHEAN: -- particularly
5 given the --

6 MR. VARANINI: It will be tomorrow.

7 HEARING OFFICER SHEAN: Oh, okay,
8 wonderful. Given that Monday is the holiday.

9 Okay, then moving to --

10 MR. CHAPMAN: Garret, can I ask a
11 question --

12 HEARING OFFICER SHEAN: Sure.

13 MR. CHAPMAN: -- or make a comment on
14 this? What I want to ask about is without a
15 condition, which right now the way we're looking
16 at no condition, with no condition at all, how if,
17 down the road, public perceives this gigantic
18 problem. And they come back to compliance office
19 and say, this is just out of hand.

20 How does compliance office have
21 something to gauge as to whether they're in
22 compliance or out of compliance, if there is no
23 condition?

24 I mean, can it be re-thought after the
25 fact as to deciding what significant is and what

1 isn't? Or, I mean how much analysis can happen
2 after the fact?

3 HEARING OFFICER SHEAN: After the fact.

4 MR. CHAPMAN: As to whether you're
5 complying or not complying. That's my question.

6 HEARING OFFICER SHEAN: Well, I'm not
7 sure that I have a clear answer to that. I guess
8 what we're at is potentially at the point where if
9 we can anticipate that there will be times that
10 the plume is well within what we think will be
11 significant, so that it's not significant, but
12 that there may be occasions where the combination
13 of meteorological conditions and the operation of
14 the facility cause it to basically be one of those
15 occasions where it's a large plume.

16 I guess where we're at is, if it's
17 consistently at the most significant size, then
18 that's problematic.

19 Now, what one would do -- and whether
20 that would constitute a nuisance or not, I don't
21 know. I guess this is something the Committee has
22 been wrestling with and discussing, and I guess
23 the best thing to do is say that your comment is
24 one we'll work on Tuesday.

25 And if it's raised at the full

1 Commission hearing is something that the full
2 Commission may want to deal with in addition to
3 what the Committee is.

4 MR. CHAPMAN: Because, you know, as the
5 guy that was kind of sitting there on the outside
6 of the battle, I expected that there would just be
7 some adjustments in numbers, eventually we'd get
8 an agreed-to number there.

9 And when the thing was just wiped right
10 out of the decision, I think that's where my
11 confusion comes.

12 HEARING OFFICER SHEAN: Okay. Well, we
13 knew this issue wasn't going to be easy, so we're
14 trying our best to be Solomonesque about it.

15 MS. DeCARLO: Will staff have an
16 opportunity to respond to applicant's response to
17 staff's comments?

18 HEARING OFFICER SHEAN: Sure. And I
19 guess what I would suggest is, you know, that you
20 actually engage in some dialogue once you get it.
21 I don't have a problem with the staff and
22 applicant doing it at that point so that at least
23 either there's a very clear understanding between
24 you as to exactly what the differences are, so
25 those differences can be focused and sharpened for

1 the Commission hearing.

2 MR. VARANINI: We'd be open to a joint
3 statement if we can work out any kind of a
4 statement of agreements and disagreement on the --
5 what the facts or what the record is, and where
6 the agreements are, and where the disagreements
7 are. Just get this thing down, get it narrowed
8 down as best we can for both the Committee and the
9 full Commission.

10 HEARING OFFICER SHEAN: Okay. Staff
11 makes some suggestions on page 10 in its comments
12 with regard to changes.

13 In the land use section, how do those
14 look to the applicant, the ones on page 49 and
15 page 51?

16 And actually what I'll say is that we
17 were thinking of just substituting the page 51
18 comment for what's in there in its entirety, since
19 it captures most of what's needed as the
20 discussion of the Contra Costa County general
21 plan. But before we made the changes, I would get
22 your reaction.

23 MR. VARANINI: Fine.

24 HEARING OFFICER SHEAN: Okay. Then I
25 wanted to confirm --

1 MR. VARANINI: You know, if we work this
2 a little harder we could have a -- we're pretty
3 close to Senor Wences.

4 HEARING OFFICER SHEAN: On page 114
5 there's discussion that we're looking at a section
6 7 consultation, as well as a section 10. And so
7 that on that page in the paragraph entitled,
8 aquatic life, water intake, and cooling wastewater
9 discharges, that any references to section 10 also
10 include references to section 7, is that correct?

11 MS. DeCARLO: Yes, that's correct.

12 HEARING OFFICER SHEAN: Okay. Is that
13 pretty much okay with the applicant?

14 MR. VARANINI: Sure.

15 HEARING OFFICER SHEAN: I haven't looked
16 through these that we were just handed this
17 evening by the staff.

18 MS. DeCARLO: They're pretty much just
19 clarification proposed by our compliance project
20 managers to make sure that the verifications were
21 clear as to what was required and when, to resolve
22 any ambiguities.

23 HEARING OFFICER SHEAN: Okay, we'll just
24 take a minute here and look through this.

25 (Pause.)

1 MR. VARANINI: On AQ-32 we need to know
2 whether initial startup is commercial operation or
3 first roll. It's just a clarification.

4 HEARING OFFICER SHEAN: Why doesn't the
5 staff communicate with the applicant on that on
6 AQ-32 as to what it is you're trying to get to.
7 And if you can work out something with that, all
8 the better.

9 MS. DeCARLO: Well, when you're just
10 firing up the plant you're kind of working out the
11 bugs, is that correct?

12 MR. HARRER: Right. Goes on for --

13 MS. DeCARLO: Then I would assume this
14 would be commercial operation once all that's
15 done.

16 (Pause.)

17 HEARING OFFICER SHEAN: If you want to
18 take some time --

19 MR. VARANINI: The rest is fine.

20 HEARING OFFICER SHEAN: Huh?

21 MR. VARANINI: The rest are fine.

22 HEARING OFFICER SHEAN: The rest are
23 okay? It's just a question of clarifying AQ-32,
24 then?

25 MR. VARANINI: Yes.

1 HEARING OFFICER SHEAN: Okay.

2 MS. DeCARLO: Would you like to see
3 specific language in the AQ-32 to specify?

4 HEARING OFFICER SHEAN: They just want
5 to know what you mean. Right?

6 MR. VARANINI: -- commercial startup?

7 MS. DeCARLO: Yeah, that's what I
8 assume. And I can let you know if it's any
9 different than that.

10 MR. VARANINI: Okay.

11 HEARING OFFICER SHEAN: Okay, so we have
12 now -- we've walked through all the applicant's
13 proposed changes and comments. And those of the
14 staff.

15 First of all, let me ask whether either
16 the applicant or staff think there is something we
17 haven't covered that was part of your submittal?

18 MR. VARANINI: No.

19 MS. DeCARLO: I think we've addressed it
20 all.

21 HEARING OFFICER SHEAN: All right. Is
22 there anything not in a submittal that we want to
23 do orally as a proposed change or comment on the
24 PMPD?

25 Okay, no nods from both parties.

1 Mr. Chapman, you got a shot at it.

2 MR. CHAPMAN: I have nothing.

3 HEARING OFFICER SHEAN: And nothing from
4 Sportsman. Is there anything, either a comment or
5 other matter, from a member of the audience?

6 MS. ROSS: The Public Adviser -- my
7 name's Priscilla Ross, I'm with the Public
8 Adviser's Office. And we received a question from
9 a person in the public, Norma Hernandez, who was
10 not able to be here tonight. But she asked me to
11 enter this into the record.

12 On page 4 of the PMPD, in the second
13 paragraph, the sentence talks about water. And it
14 says: In the event the river quality were to be
15 unacceptable for the treatment system to handle,
16 unit 8 would draw process water from a 500,000
17 gallon demineralized water storage tank added to
18 the project to eliminate the need for water backup
19 from the City of Antioch.

20 The two questions Ms. Hernandez asks
21 are: Where is the water going to come from to
22 fill the tank. And, in the event that water will
23 be used, where will the water come from to refill
24 it.

25 Her concern is where the water is coming

1 for this unit.

2 MR. HARRER: It does not come from the
3 City of Antioch in either case.

4 MS. ROSS: It does not come from the
5 City of Antioch?

6 MR. HARRER: Right. It will be filled
7 from the RO, from the normal intake water that we
8 take in and purify.

9 MS. ROSS: So that's from the river.

10 MR. HARRER: Yeah.

11 MS. ROSS: Okay.

12 MR. CHAPMAN: It doesn't come from
13 Contra Costa Water District, either. From the
14 river. That's the concern that Norma has, I'm
15 sure.

16 MS. ROSS: You need to come up here or
17 it won't be on the record.

18 HEARING OFFICER SHEAN: Okay, all right,
19 well, if the concern --

20 MR. HARRER: No, it's been her concern
21 all along.

22 HEARING OFFICER SHEAN: -- is whether or
23 not the water --

24 MS. ROSS: It has been her concern all
25 along.

1 HEARING OFFICER SHEAN: -- this is
2 potable water from a municipal water supply, the
3 answer given by the applicant is the water is
4 taken from the river water that is part of what
5 they take in for the cooling of units 6 and 7, is
6 that correct?

7 MR. HARRER: Right.

8 MS. ROSS: And they can do this because
9 there's a grandfather clause, is that correct?
10 That they were grand -- there was something
11 grandfathered in so that you have right to do
12 that? Take that water? Is that --

13 MR. HARRER: Well, yeah, according with
14 the operating --

15 MR. GERMAN: We have riparian rights.

16 MR. HARRER: Yeah, right.

17 MS. ROSS: She is interested in tying
18 down, and feels like she's asked this question
19 several times, is when were the rights given and
20 for how much water.

21 MR. HARRER: We have to look it up.

22 HEARING OFFICER SHEAN: Okay, well,
23 maybe we can attempt to satisfy that. Would that
24 be something that's covered in your permit,
25 anyway, the MPDES permit?

1 MR. VARANINI: Um-hum, yeah.

2 HEARING OFFICER SHEAN: Okay.

3 MR. HARRER: But we do state it does not
4 come from Contra Costa water supply or the City of
5 Antioch water supply. That's not what we're
6 using.

7 HEARING OFFICER SHEAN: All right,
8 anything from any other member of the audience?

9 Well, this is sort of a going, going,
10 gone, because this is our last visit to the
11 community here before we take the matter to the
12 full Commission.

13 All right, with that let me just
14 indicate we appreciate the hospitality we have
15 gotten from everyone here, the City of Antioch and
16 the general Delta area, particularly the
17 Sportsmans Yacht Club, the couple times we've been
18 out there. We've now found a great Thai
19 restaurant now that we're no longer going to be
20 coming down here.

21 And with that, --

22 MR. HARRER: Oh, you might be coming
23 again.

24 HEARING OFFICER SHEAN: Yeah, oh, okay.

25 (Laughter.)

1 HEARING OFFICER SHEAN: With that, then,
2 we'll conclude this evening's meeting and see some
3 or all of you on Wednesday at approximately 10:00
4 at Commission headquarters in Sacramento.

5 Thank you very much.

6 (Whereupon, at 7:00 p.m., the matter was
7 concluded.)

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CERTIFICATE OF REPORTER

I, JAMES RAMOS, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Conference; that it was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said conference, nor in any way interested in outcome of said conference.

IN WITNESS WHEREOF, I have hereunto set my hand this 31st day of May, 2001.

JAMES RAMOS

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